



INTERIOR BOARD OF INDIAN APPEALS

United Keetoowah Band of Cherokee Indians in Oklahoma
v. Acting Muskogee Area Director, Bureau of Indian Affairs

24 IBIA 154 (08/30/1993)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

UNITED KEETOOWAH BAND OF	:	Order Docketing and Dismissing
CHEROKEE INDIANS IN OKLAHOMA,	:	Appeal
Appellant	:	
	:	
v.	:	Docket No. IBIA 93-119-A
	:	
ACTING MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	August 30, 1993

This is an appeal from a July 23, 1993, decision of the Acting Muskogee Area Director, Bureau of Indian Affairs (Area Director), declining to assign certain lands now held in trust for the Cherokee Nation of Oklahoma to the United Keetoowah Band of Cherokee Indians in Oklahoma. The appeal was filed in person by appellant's attorney on August 27, 1993.

A copy of the Area Director's decision letter was attached to the notice of appeal. The letter was addressed to John Ross and indicated that it was written to Ross as the representative of the United Keetoowah Band. In light of an apparent date of receipt stamped on the decision, the notice of appeal appeared to be untimely. The Board therefore asked the Muskogee Area Office to telefax a copy of the signed return receipt card for the July 23, 1993, decision. The card shows that the decision was received by Ross on July 26, 1993. Appellant's notice of appeal should therefore have been filed on or before August 25, 1993.

The Area Director's decision stated:

Your notice of appeal to the Board * * * must be mailed within 30 days of the date you receive this decision. * * * If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Although notices of appeal to the Board are normally filed by mail, such a notice may also be filed in person. An appellant filing in person is subject to the same time deadline as one who files by mail. See 43 CFR 4.310(a): "The effective date of filing a notice of appeal * * * with the Board * * * is the date of mailing or the date of personal delivery."

Under 43 CFR 4.332(a), a notice of appeal shall be filed "within 30 days after receipt by the appellant of the decision from which the appeal is taken. * * * A notice of appeal not timely filed shall be dismissed for lack of jurisdiction."

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is docketed under the above case name and number and dismissed for lack of jurisdiction.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge